



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0240; FRL-9935-56-Region 9]

Approval of Implementation Plans; Arizona, Phoenix-Mesa; 2008

Ozone Standard Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Arizona State Implementation Plan (SIP) concerning the emission inventory, emission statements, reasonably available control technology corrections and the vehicle inspection and maintenance requirements for the Phoenix-Mesa 2008 eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) Marginal nonattainment area. We are approving these revisions under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective on [**Insert date 60 days after the date of publication in the Federal Register**] without further notice, unless the EPA receives adverse comments by [**Insert date 30 days after the date of publication in the Federal Register**]. If we receive such comments, we will publish a timely withdrawal

in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number [EPA-R09-OAR-2015-0240 by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. *E-mail:* [levin.nancy@epa.gov](mailto:levin.nancy@epa.gov).
3. *Mail or deliver:* Nancy Levin (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit <http://www.epa.gov/dockets/comments.html> for further instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. For the full EPA public comment policy and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/comments.html>.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, (415) 972-3848, [Levin.nancy@epa.gov](mailto:Levin.nancy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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### **I. Background.**

On March 12, 2008, the EPA strengthened the primary and secondary eight-hour ozone NAAQS to 0.075 ppm (annual fourth-highest daily maximum eight-hour concentration, averaged over three years) (73 FR 16436).<sup>1</sup> In accordance with section 107(d) of the CAA, the EPA must designate an area "nonattainment" if it is violating the NAAQS or if it is contributing to a violation of the NAAQS in a nearby area. The EPA designated the Phoenix-Mesa (hereinafter referred to as "Maricopa") area as nonattainment for the 2008 ozone NAAQS on May 21, 2012, effective July 20, 2012 (77 FR 30088). The Maricopa nonattainment area (NAA), which includes a portion of Maricopa County and a portion of Pinal

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<sup>1</sup> Since the 2008 primary and secondary NAAQS for ozone are identical, for convenience, we refer to both as "the 2008 ozone NAAQS" or "the 2008 ozone standards."

County, was classified by operation of law as a Marginal nonattainment area (40 CFR 81.303). The Arizona Department of Environmental Quality (ADEQ) submitted the "Maricopa Association of Governments 2014 Eight-Hour Ozone Plan - Submittal of Marginal Area requirements for the Maricopa Nonattainment Area (June 2014)" ("MAG 2014 Eight-Hour Ozone Plan" or "Submittal") on July 2, 2014.

The EPA proposed the 2008 ozone NAAQS SIP Requirements Rule (SRR) on June 6, 2013 (78 FR 34178) and finalized the SRR on March 6, 2015 (80 FR 12264, codified at 40 CFR part 51, subpart AA), effective April 6, 2015. The SRR both promulgated implementation requirements for the 2008 ozone NAAQS and revoked the 1997 ozone NAAQS.<sup>2</sup>

On August 27, 2015, the EPA proposed to reclassify the Maricopa NAA as Moderate for the 2008 ozone NAAQs because the Maricopa NAA failed to attain the 2008 ozone NAAQS by the Marginal area attainment deadline of July 20, 2015 (80 FR 51992). Should this action be finalized, the Maricopa NAA would

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<sup>2</sup> The SRR revokes the 1997 NAAQS, but not all of the requirements for implementing the 1997 NAAQS.

be subject to additional requirements, including 1) an attainment demonstration; 2) provisions for reasonably available control technology (RACT) and reasonably available control measures (RACM); 3) reasonable further progress (RFP) reductions in volatile organic compounds (VOC) and/or nitrogen oxide (NOx) emissions; 4) contingency measures; 5) a vehicle inspection and maintenance program; and 6) NOx and VOC emission offsets at a ratio of 1.15 to 1 for major source permits (see 40 CFR part 51, subpart AA and CAA sections 182(b) and 172(c)). A SIP revision addressing all of these requirements would be due to the EPA by January 1, 2017.<sup>3</sup>

## **II. Procedural Requirements for Adoption and Submittal of SIP Revisions.**

CAA section 110(a)(1) and 110(l) require states to provide reasonable notice and public hearing prior to adoption of SIP revisions. Section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. Any plan that we have not affirmatively determined to be

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<sup>3</sup> 80 FR 51992, 51999.

complete or incomplete will become complete six months after the day of submittal by operation of law. A finding of completeness does not approve the submittal as part of the SIP nor does it indicate that the submittal is approvable. It does start a 12-month clock for the EPA to act on the SIP submittal (see CAA section 110(k)(2)).

ADEQ's Submittal documents the public review process followed by MAG and ADEQ in adopting the "MAG 2014 Eight-Hour Ozone Plan - Submittal of Marginal Area Requirements for the Maricopa Nonattainment Area" prior to submittal to the EPA as a revision to the SIP (See Appendix B.1). In addition, ADEQ's Submittal documents the adoption of the MAG 2014 Eight-Hour Ozone Plan by the MAG Regional Council and includes a letter dated June 27, 2014 from MAG to ADEQ, requesting that ADEQ submit the MAG 2014 Eight-Hour Ozone Plan to the EPA for approval.

Based on the documentation included in ADEQ's Submittal, we find that the submittal of the MAG 2014 Eight-Hour Ozone Plan, as a SIP revision, satisfies the procedural requirements of sections 110(a)(1) and 110(l) of the Act requiring states to provide reasonable notice and public hearing prior to adoption of SIP revisions. The MAG 2014 Eight-Hour Ozone Plan became complete by operation of law on January 2, 2015 pursuant to

section 110(k)(1)(B). The technical support document (TSD) for our action has more information on our evaluation.

### **III. Analysis of the State's Submittal.**

For Marginal nonattainment areas, states are required to comply with sections 172(c) and 182(a) of the Act. Marginal areas have up to three years from the effective date of designation to attain the NAAQS (40 CFR 51.1103(a)). Unlike areas classified as Moderate and above, Marginal areas are not required to submit an attainment demonstration or RFP provisions (see CAA section 182(a) and 80 FR 12268). Below we summarize the CAA and SRR requirements, how they are addressed in the Submittal, and our recommended action. Please refer to the TSD in the docket for this action for additional information.

#### *A. Base Year Emissions Inventory.*

##### 1. Statutory and Regulatory Requirements.

CAA section 182(a)(1) and 40 CFR 51.1115(a) require states to submit a "base year inventory" for each 2008 ozone nonattainment area within two years of the effective date of designation. This inventory must be "a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO<sub>x</sub> emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)" (40 CFR 51.1100(bb), see also CAA section 172(c)(3)). The inventory year must be selected



consistent with the baseline year for the RFP plan, which is typically the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the Air Emissions Reporting Requirements (AERR) (40 CFR part 51, subpart A) (see 40 CFR 51.1115(a), 51.1110(b)). The emission values in the base year must be "actual ozone season day emissions," i.e. "an average day's emissions for a typical ozone season work weekday." (40 CFR 51.1115(c), 51.1100(cc)).

## 2. Summary of the State's Submittal.

The Maricopa County Air Quality Department (MCAQD) prepared a base year emissions inventory, with the assistance of MAG, and MAG submitted the base year inventory as part of the MAG 2014 Eight-hour Ozone Plan.<sup>4</sup> MCAQD selected 2011 as the base year. The base year inventory includes ozone season-day emissions from point sources, area sources, nonroad mobile sources, and on-road mobile sources. Appendix A, Exhibit 1 of the MAG 2014 Eight-Hour

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<sup>4</sup> MAG 2014 Eight-hour Ozone Plan, Table 1 - Summary Table of Nonattainment Area Emissions from the Maricopa County Air Quality Department 2011 Periodic Emissions Inventory for Ozone Precursors, February 2014, page 5. See also Appendix A, Exhibit 1.

Ozone Plan includes a description of the methods used to estimate emissions for each category (or subcategory).

The following is a summary of the 2011 Maricopa NAA Emissions Inventory.<sup>5</sup>

Maricopa NAA 2011 Base Year Eight-hour Ozone Season Day Emission Inventory (July-September)				
Category	VOC lbs/ day	% of total	NOx lbs/ day	% of total
Point sources	4,908	1%	15,407	3.1%
Area sources				
Fuel combustion	593	0.1%	23,484	4.8%
Industrial processes	17,452	4%	1,490	0.3%
Solvent use	166,557	34%	0	0%
Storage/transport	28,766	6%	0	0%
Waste treatment/disposal	838	0%	316	0.1%
Miscellaneous area sources	13,650	3%	6,532	1.3%
Mobile - Non road sources	111,798	23%	141,444	28.8%
Mobile - On road sources	148,186	30%	301,824	61.5%
Total (excluding biogenic)*	492,748	100%	490,495	100.0%

\*Differences due to rounding.

The TSD for this action contains more information about how

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<sup>5</sup> MAG 2014 Eight-Hour Ozone Plan, Table 1, pp. 5-6.

MCAQD developed the emission inventory (EI) data for each category of sources.

### 3. EPA Evaluation of the State's Submittal.

The EPA has reviewed the 2011 ozone season day base year inventory including emission estimates for point source, area source, nonroad and onroad sources. We find that MCAQD's selection of 2011 as the base year is appropriate because 2011 was the most recent calendar year for which a complete triennial inventory was required to be submitted to the EPA under the AERR (see 40 CFR 51.30(b)). We also find that the data elements in the base year inventory are "consistent with the detail" required by the AERR. Generally, MCAQD used published emission factors from EPA's National Emissions Inventory,<sup>6</sup> made assumptions consistent with the EPA's Emission Inventory Improvement Program Guidance,<sup>7</sup> and used the most recent EPA

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<sup>6</sup> The National Emissions Inventory (NEI) is a comprehensive and detailed estimate of air emissions of air pollutants from all air emissions sources. The NEI is prepared every three years by the EPA based primarily upon emission estimates and emission model inputs provided by State, Local and Tribal air agencies for sources in their jurisdictions, and supplemented by data developed by the EPA. See <http://www3.epa.gov/ttn/chief/eiinformation.html>

<sup>7</sup> See, e.g., EPA, Emissions Inventory Improvement Program (EIIP), Volume III, Chapter 1. Introduction to Area Source Emission Inventory Development

models available at the time of inventory preparation. In addition, the Submittal provides sufficient documentation and explanation to allow the EPA to make a determination on the acceptability of the base year inventory.

However, we believe that MCAQD's initial selection of July-September as the basis for calculating the "ozone season day emissions" was not appropriate because it was based on 1981-1991 exceedance data for a previous ozone NAAQS.<sup>8</sup> Accordingly, we requested that MCAQD review more recent ozone monitoring data. Upon review of these data, MCAQD determined that the appropriate months to use to calculate ozone season day emissions are June-August.<sup>9</sup> Therefore, MCAQD provided a "recast" ozone season day EI for June-August.<sup>10</sup> The MCAQD's "recast" analysis shows that, compared with the July-September EI, the June-August EI showed a

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(Revised Final January 2001), Chapter 11. Gasoline Marketing (Stage I and Stage II) (Revised Final January 2001); Chapter 18. Structure Fires (Revised Final January 2001), and Area Source Category Method Abstract - Leaking Underground Storage Tanks, May 2001.

<sup>8</sup> See Appendix A, Exhibit 1: 2011 Periodic Emissions Inventory for Ozone Precursors for the Maricopa County, Arizona, Eight-Hour Ozone Nonattainment Area. Maricopa County Air Quality Department. February 2014. An "exceedance" is an ambient concentration that exceeds the relevant NAAQS.

<sup>9</sup> Maricopa County Air Quality Department, 2011 Periodic Emissions Inventory for Ozone Precursors for the Maricopa County, Arizona, Eight-Hour Ozone Nonattainment Area, Addendum, August 2015, section 3.1.

<sup>10</sup> Ibid. section 3.2.

small net increase in season day emissions for anthropogenic sources: VOC increased 0.41% and NO<sub>x</sub> increased 2.15%. MCAQD also added emission reduction credits (ERCs) to the June-August EI for point sources. Total VOC ERCs were adjusted from 114.7 to 213.03 tons/year (1,167 lbs/season day) and total NO<sub>x</sub> ERCs were adjusted from 9.8 to 14.14 tons/year (77.5 lbs/season day) to account for additional VOC and NO<sub>x</sub> ERCs.<sup>11</sup>

We agree with MCAQD that using June-August to calculate ozone season day emissions for the base year inventory is appropriate for the Maricopa NAA, given that it was the three-month period with the highest average Air Quality Index value and the greatest number of exceedances of the 2008 ozone standard in the NAA in 2011. However, in light of the relatively small differences in total anthropogenic emissions between the June-August 2011 and July-September 2011 periods, we do not believe it is necessary for MCAQD, MAG and ADEQ to submit a formal SIP revision reflecting the June-August period at this time. Accordingly, we find that the base year emission estimates

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<sup>11</sup> ERCs from Penn Racquet Sports Inc. (March 6, 2009). See Addendum, Table A.1.

approaches and methodologies are acceptable and that the state has met the requirements of the Act and the SRR with respect to base year inventories. We recommend that a revised 2011 season-day EI based on June-August data be included as part of a subsequent SIP revision to meet the CAA's Moderate ozone nonattainment area requirements, as described above.

*B. Emission Statements.*

1. Statutory and Regulatory Requirements.

Section 182(a)(3)(B)(i) of the Act requires States to submit a SIP revision requiring owners or operators of stationary sources of VOC or NO<sub>x</sub> to provide the State with statements of actual emissions from such sources. Statements must be submitted at least every year and must contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. Section 182(a)(3)(B)(ii) allows States to waive the emission statement requirement for any class or category of stationary sources that emit less than 25 tons per year of VOCs or NO<sub>x</sub>, if the state provides an inventory of emissions from such class or category of sources as part of the baseline or periodic inventory. This inventory must be based on the use of the emission factors established by the EPA or other methods acceptable to the EPA.

## 2. Summary of the State's Submittal.

ADEQ references three SIP-approved rules as meeting the requirements of CAA section 182(a)(3)(B): Maricopa County Rule 100, Section 500 - Monitoring and Records, ADEQ Rule 18-2-327 - Annual Emissions Inventory Questionnaire and Pinal County rule PG3-1-103 - Annual EI questionnaire.

## 3. EPA Evaluation of the State's Submittal.

Maricopa County Rule 100 (Section 500, Subsection 503) (approved into the Arizona SIP on November 5, 2012 (77 FR 66405)) requires owners/operators of sources that emit NOx or VOC to submit, upon request of the Control Officer, emission statements showing actual or estimated actual emissions of NOx and VOC, containing (at a minimum) all information required by Consolidated Emissions Reporting Rule,<sup>12</sup> 40 CFR subpart A, appendix A, table 2a.<sup>13</sup> Section 503 also requires that Emissions Statements be submitted annually. The Control Officer may waive

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<sup>12</sup> The Consolidated Emissions Reporting Rule is now part of the AERR (see 73 FR 76539).

<sup>13</sup> Appendix G of the Maricopa County Air Pollution Control Rules, section 4, specifies that 40 CFR, Subpart A, Appendix A, Table 2a is incorporated by reference as of July 1, 2014. Table 2a was revised on February 19, 2015 (80 FR 8787, 8790).

this requirement for the owner/operator of any source that emits less than 25 tons per year of NO<sub>x</sub> or VOC with an approved emission inventory for sources based on AP-42 or other methodologies approved by the EPA.

ADEQ Rule 18-2-327, Annual Emissions Inventory Questionnaire (approved into the Arizona SIP on November 5, 2012 (77 FR 66405)), requires every source subject to air permit requirements to complete and submit an annual emissions inventory questionnaire including facility contact information, process and control device descriptions, and a quantification of actual emissions of regulated air pollutants<sup>14</sup> using the appropriate quantification method as described in the rule.

Pinal County Rule PG3-1-103 (approved into the Arizona SIP on December 20, 2000 (65 FR 79742)) requires every source that is subject to a permit or obtains an authorization to operate, to complete and submit to the Control Officer an annual emissions inventory questionnaire. The questionnaire must include the source's name, address, contact information,

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<sup>14</sup> Regulated air pollutant is defined by SIP-approved ADEQ rule R18-2-101, section 120 to include NO<sub>x</sub> and VOC. (See 40 CFR 52.120(c)(162)(i)(A)(2),



address, and process information (e.g., including design capacity, operations schedule, emission control devices).<sup>15</sup>

Based on the contents of these rules, we find that Arizona has met the requirements of CAA section 182(a)(3)(B) for emission statements.

*C. Reasonably Available Control Technology Corrections.*

1. Statutory and Regulatory Requirements.

Section 182(a)(2)(A) of the CAA requires the State to submit, within six months of classification under section 181(a), all rules and corrections to existing RACT rules that were required under section 172(b) of the old (pre-1990 Amendments) CAA. Newly designated nonattainment areas are not subject to the RACT "fix-ups" required by section 182(a)(2)(A) because they were not subject to section 172(b) of the old law (see 57 FR 13498, 13503).

2. Summary of the State's Submittal.

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<sup>15</sup> On September 27, 2006 ADEQ submitted an amendment to PG Rule 3-1-103, however, the change does not substantively change the rule. Rather it reflected ADEQ's reclassification of Class A and Class B permits to Class I, Class II, and Class III. Under this amendment, the term "Class B permits" is replaced by "Class II or Class II permits."

The Submittal lists the SIP-approved Rules that apply to source categories subject to CAA section 182(a)(2)(A) and notes that the EPA approved Arizona's RACT demonstration for the Maricopa County 1-hour Serious Area Ozone NAA on June 14, 2005 (70 FR 34362).

3. EPA Evaluation of the State's Submittal.

As noted in the Submittal, the EPA previously determined that Arizona had met the VOC RACT requirements under section 182(a)(2)(A) for the Maricopa one-hour ozone NAA (see 70 FR 13435 and 70 FR 34363). Although the NAA for the 2008 eight-hour ozone standard is larger than that the one-hour NAA, only the original one-hour area is subject to the RACT correction requirement of 182(a)(2)(A). Therefore, we find that Arizona has met the requirements of CAA section 182(a)(2)(A) with respect to the Maricopa 2008 eight-hour ozone NAA.

*D. Vehicle Inspection and Maintenance Programs.*

1. Statutory and Regulatory Requirements.

Section 182(a)(2)(B)(i) of the Act requires the State to submit a revision, immediately after November 15, 1990, to correct any pre-1990 schedules for vehicle emission control inspection and maintenance programs, immediately after November 15, 1990. In addition, section 182(a)(2)(B)(ii) requires that the State shall review, revise, update, and republish in the

**Federal Register** the guidance for the States for motor vehicle inspection and maintenance (I/M) programs within 1 year of November 15, 1990. The EPA's I/M regulations are codified at 40 CFR part 51, subpart S ("Inspection/Maintenance Program Requirements"), sections 51.350 through 51.373. As explained in the preambles to proposed and final SRR, no new vehicle I/M programs are currently required for purposes of the 2008 ozone NAAQS (78 FR 34194-34196, 80 FR 12283).

2. Summary of the State's Submittal.

The Submittal notes that the EPA approved ADEQ's Basic and Enhanced Vehicle Emissions Inspection and Maintenance Programs on January 22, 2003, and approved a statutory provision extending the State's vehicle emissions inspection program on December 21, 2009 (74 FR 67819).

3. EPA Evaluation of the State's Submittal.

As noted in the Submittal, the EPA previously approved an "enhanced" I/M program that exceeds the requirements of section 182(a)(2)(B) for the Phoenix-Mesa nonattainment area (69 FR 2912 (January 22, 2003)). Therefore, we find that Arizona has met the requirements of CAA section 182(a)(2)(B) with respect to the Maricopa 2008 eight-hour ozone NAA.

*E. Permit Programs: Nonattainment Area Preconstruction, New Source Review.*

### 1. Statutory and Regulatory Requirements.

Section 182(a)(2)(C) of the Act, requires states to submit a SIP revision within two years after November 15, 1990 to require pre-construction permits for new or modified major stationary sources in the NAA, and to correct requirements regarding pre-1990 permit programs. However, as explained in the preambles to the EPA's final Phase 2 implementation rule for the 1997 eight-hour standard and the final SRR, the EPA considers the submission of new source review (NSR) SIPs due on November 15, 1992 to have fulfilled this CAA requirement (See 75 FR 71683, n. 110, and 80 FR 12267). Therefore, the EPA has concluded that the two-year deadline contained in CAA section 182(a)(2)(C)(i) does not apply to subsequent NSR SIPs for revised ozone standards, including the nonattainment NSR SIPs for implementing the eight-hour ozone NAAQS. (Id.) Accordingly, the SRR at 40 CFR 51.1114 sets a deadline of three years from the date of designation for states to submit their nonattainment NSR program SIPs for the 2008 ozone NAAQS.

### 2. Summary of the State's Submittal.

The Submittal describes the roles of ADEQ, MCAQD and PCAQCD in implementing the preconstruction permit program in the Maricopa NAA. In particular, the Submittal explains that ADEQ has permitting jurisdiction for the following stationary source

categories: smelting of metal ores, coal-fired electric generating stations, petroleum refineries, Portland cement plants, and portable sources. ADEQ also has permitting jurisdiction over other major sources in Pinal County, but has delegated implementation of the major source program to PCAQCD, which implements ADEQ's major NSR rules. MCAQD has jurisdiction over other sources in Maricopa County. The Submittal also described various SIP revisions submitted by ADEQ to meet nonattainment NSR requirements.

### 3. EPA Evaluation of the State's Submittal.

The EPA recently finalized a limited approval and limited disapproval of various rules that comprise ADEQ's NSR program.<sup>16</sup> We expect that ADEQ will revise these rules in the near future. With regard to MCAQD's rules, we note that ADEQ had submitted MCAQD Rule 240 - Permits for New Major Sources and Major Modifications to Existing Major Sources to the EPA on August 31, 1995, but withdrew it on April 25, 2014 in order to revise and resubmit it to the EPA for SIP approval. ADEQ published a

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<sup>16</sup> Final rule, Revisions to Air Plan; Arizona; Stationary Sources; New Source Review (pre-publication version, signed June 29, 2015).

proposed notice of rulemaking for amendments to Rule 240 and other related rules on August 31, 2015.<sup>17</sup> Given the expected submittal of revised ADEQ and MCAQD NSR rules in the near future, we are deferring action on this element of the MAG 2014 Eight-Hour Ozone Plan at this time.

*F. Offset Requirements.*

CAA Section 173 requires new and modified major sources in nonattainment areas to secure emissions reductions (i.e., "offsets") to compensate for a proposed emissions increase. For Marginal areas, section 182(a)(4) of the Act sets a general offset ratio of 1.1 to 1 for total VOC and NOx emission reductions as compared to VOC and NOx emission increases. The Submittal references ADEQ Rule R18-2-404(J) and Maricopa County Air Pollution Control Regulations, Rule 240, Section 306.3 as fulfilling the requirements of CAA section 182(a)(4). Given the expected submittal of revised ADEQ and MCAQD NSR rules in the

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<sup>17</sup> On July 31, 2015 the Arizona Secretary of State published a notice of proposed rulemaking to amend MCAQD's rules relating to NSR, including Rule 240. See Arizona Administrative Register (AAR) Vol. 21, Issue 31, page 1302 (July 31, 2015), available at: [http://apps.azsos.gov/public\\_services/register/2015/31/28\\_county\\_notices.pdf](http://apps.azsos.gov/public_services/register/2015/31/28_county_notices.pdf). It also announced a 30-day comment period that ended August 31, 2015.

near future, we are deferring action on this element of the MAG 2014 Eight-Hour Ozone Plan at this time.

*G. Transportation Conformity.*

The Submittal lists "Meet Transportation Conformity Requirements - CAA Section 176(c)" as a marginal area requirement. We note that motor vehicle emission budgets, used in transportation conformity determinations, are not required for marginal areas because such areas are not required to submit a "control strategy implementation plan revision."<sup>18</sup> However, as noted above, the EPA has proposed to reclassify the Maricopa NAA to Moderate nonattainment. If the reclassification is finalized, MAG would be required to develop motor vehicle emission budgets as part of a Moderate area attainment demonstration. In the meantime, MAG may continue to rely on its emission budgets for the 1997 ozone NAAQS,<sup>19</sup> which the EPA approved on September 17, 2014 (79 FR 55645). Accordingly, we are not taking further action on these budgets at this time.

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<sup>18</sup> See 40 CFR 93.101.

<sup>19</sup> See 40 CFR 93.109(c)(2).

#### **IV. Final Action.**

The EPA is taking direct final action to approve the MAG 2014 Eight-Hour Ozone Plan with respect to the requirements of CAA section 182(a)(1), (2)(A) and (B), and (3)(B) and is deferring action with respect to the requirements of CAA sections 176(c) and 182(a)(2)(C) and (4). We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule(s). If we receive adverse comments by [Insert date 30 days after date of publication in the Federal Register], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [Insert date 60 days after date of publication in the Federal Register].

#### **V. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is



to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged

to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 25, 2015.

Jared Blumenfeld  
Regional Administrator,  
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart D - Arizona**

2. Section 52.120 is amended by adding paragraph (c) (172) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(172) The following plan was submitted July 2, 2014, by the Governor's designee.

(i) [Reserved]

(ii) *Additional materials.*

(A) Arizona Department of Environmental Quality (ADEQ).

(1) *MAG 2014 Eight-Hour Ozone Plan - Submittal of Marginal Area Requirements for the Maricopa Nonattainment Area (June 2014),* excluding:

(i) Sections titled "A Nonattainment Area Preconstruction Permit Program - CAA section 182(a)(2)(C)," "New Source Review - CAA,

Title I, Part D," and "Offset Requirements: 1:1 to 1 (Ratio of Total Emission Reductions of Volatile Organic Compounds to Total Increased Emissions) - CAA Section 182(a)(4)" on pages 8 and 9 and section titled "Meet Transportation Conformity Requirements - CAA Section 176(c)" on pages 10 and 11.

(ii) Appendices A and B.

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